

2008R01426
RHC/dc

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

PEDRO AVELLANEDA-CHAVEZ

Defendant.

Hon. William H. Walls, Sr. U.S.D.J.

Criminal No. 09-112

FINAL ORDER OF FORFEITURE

WHEREAS, on February 20, 2009, an Information was filed charging Pedro Avellaneda-Chavez ("Defendant") with knowingly and intentionally possessing with intent to distribute approximately 1,245 grams of heroin, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A), and 18 U.S.C. § 2; and

WHEREAS, on November 30, 2009, Pedro Avellaneda-Chavez pled guilty to the Indictment; and

WHEREAS, pursuant to 21 U.S.C. § 853, the Court in imposing a sentence on a person convicted of an offense in violation of 21 U.S.C. § 841, shall order that person to forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, and any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation; and

WHEREAS, on October 14, 2010, a Preliminary Order of Forfeiture was entered pursuant to 21 U.S.C. § 853 for the forfeiture of approximately \$1,000 in United States currency, which was seized from Pedro Avellaneda-Chavez on or about December 3, 2008, as property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of his drug offenses, as set forth in the Indictment (the "Property"); and

WHEREAS, pursuant to 21 U.S.C. § 853(n)(1), a Notice of Forfeiture with respect to the Property was posted on an official government internet site, namely www.forfeiture.gov, beginning on October 16, 2010 and running for thirty consecutive days through November 14, 2010 (see Exhibit A to the Declaration of Randall H. Cook with Exhibit); and

WHEREAS no claims or answers have been filed against the Property within the time permitted;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

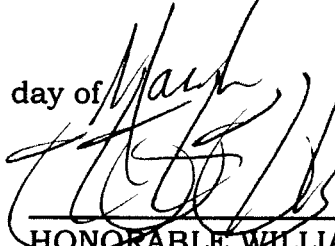
THAT a Final Order of Forfeiture is entered against approximately \$1,000, and no right, title or interest in the Property shall exist in any other party; and

THAT any and all forfeited funds, including but not limited to currency, currency equivalents and certificates of deposits, as well as any income derived as a result of the United States Department of Homeland Security, Immigration and Customs Enforcement's management of any property forfeited herein, after the payment of costs and expenses incurred in connection with the forfeiture

and disposition of the forfeited property, shall be deposited forthwith by the United States Department of Homeland Security, Immigration and Customs Enforcement into the Department of the Treasury Forfeiture Fund, in accordance with th law.

The Clerk is hereby directed to send copies to all counsel of record.

ORDERED this 17 day of March, 2011.



HONORABLE WILLIAM H. WALLS
Senior United States District Judge

2008R01426
RHC/dc

UNITED STATES OF AMERICA

Plaintiff,

v.

PEDRO AVELLANEDA-CHAVEZ

Defendant.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Hon. William H. Walls, Sr. U.S.D.J.

Criminal No. 09-112

DECLARATION OF RANDALL H. COOK
WITH EXHIBIT IN SUPPORT OF FINAL
ORDER OF FORFEITURE

RANDALL H. COOK, who being sworn, deposes and says:

1. I am an Assistant United States Attorney, and I represent the United States of America in this action. I make the following statements based on a review of the files maintained by the United States Attorney's Office.

2. On or about February 20, 2009, an Information was filed charging Pedro Avellaneda-Chavez ("Defendant") with knowingly and intentionally possessing with intent to distribute approximately 1,245 grams of heroin, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A), and 18 U.S.C. § 2.

3. On November 30, 2009, Defendant Pedro Avellaneda-Chavez pled guilty to the Indictment.

4. Pursuant to 21 U.S.C. § 853, the Court in imposing a sentence on a person convicted of an offense in violation of 21 U.S.C. § 841, shall order that person to forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, and

any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

5. On October 14, 2010, a Preliminary Order of Forfeiture was entered pursuant to 21 U.S.C. § 853 for the forfeiture of approximately \$1,000 in United States currency, which was seized from Pedro Avellaneda-Chavez on or about December 3, 2008, as property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of his drug offenses, as set forth in the Indictment (the "Property").

6. Pursuant to 21 U.S.C. § 853(n)(1), a Notice of Forfeiture with respect to the Property was posted on an official government internet site, namely www.forfeiture.gov, beginning on October 16, 2010 and running for thirty consecutive days through November 14, 2010. (See Exhibit A.)

7. No claims have been filed on the Property within the time permitted.

8. Affiant knows of no reason why a Final Order of Forfeiture should not be entered against the Property.

I declare under penalty of perjury that the foregoing is true and correct.

PAUL J. FISHMAN
United States Attorney

S/ Randall H. Cook
BY: RANDALL H. COOK
Assistant United States Attorney

Dated: February 15, 2011
Newark, New Jersey

EXHIBIT A

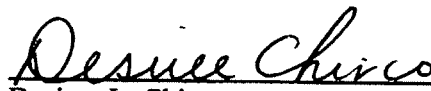
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

| | | |
|---------------------------|---|--------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 09-112 |
| |) | |
| PEDRO AVELLANEDA-CHAVEZ |) | |
| |) | |
| Defendant. |) | |

DECLARATION OF PUBLICATION

In accordance with 21 U.S.C. § 853(n)(1) and Rule 32.2(b)(6)(C) of the Federal Rules of Criminal Procedure, notice of the forfeiture was posted on an official government internet site (www.forfeiture.gov) for at least 30 consecutive days, beginning on October 16, 2010 and ending on November 14, 2010. (See, Attachment 1).

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 02, 2011 at Newark, NJ.



Desiree L. Chirco
Supervisory Paralegal

Attachment 1

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
COURT CASE NUMBER: 09-112; NOTICE OF FORFEITURE**

Notice is hereby given that on October 15, 2010, in the case of U.S. v. PEDRO AVELLANEDA-CHAVEZ, Court Case Number 09-112, the United States District Court for the District of New Jersey entered an Order condemning and forfeiting the following property to the United States of America:

\$1000.00 in US currency (09-ICE-002135) which was seized from Pedro Avellaneda-Chavez on December 03, 2008

The United States hereby gives notice of its intent to dispose of the forfeited property in such manner as the United States Attorney General may direct. Any person, other than the defendant(s) in this case, claiming interest in the forfeited property must file a Petition within 60 days of the first date of publication (October 16, 2010) of this Notice on this official government internet web site, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(n)(1). The petition must be filed with the Clerk of the Court, Martin Luther King Federal Building & U.S. Courthouse, 50 Walnut Street, Room 4105, Newark, NJ 07101-0419, and a copy served upon Assistant United States Attorney Marion Percell, 970 Broad Street,, Suite 700, Newark, NJ 07102. The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought, pursuant to 21 U.S.C. § 853(n).

Following the Court's disposition of all petitions filed, or if no such petitions are filed, following the expiration of the period specified above for the filing of such petitions, the United States shall have clear title to the property and may warrant good title to any subsequent purchaser or transferee.



Advertisement: Certification Report

The Notice of Publication was available on the www.forfeiture.gov web site for at least 18 hours per day between October 16, 2010 and November 14, 2010. Below is a summary report that identifies the uptime for each day within the publication period and reports the results of the web monitoring system's daily check that verifies that the advertisement was available each day.

U.S. v. PEDRO AVELLANEDA-CHAVEZ

Court Case No: 09-112
For Asset ID(s): See Attached Advertisement Copy

| Consecutive Calendar Day Count | Date Advertisement Appeared on the Web Site | Total Hours Web Site was Available during Calendar Day | Verification that Advertisement existed on Web Site |
|--------------------------------|---------------------------------------------|--------------------------------------------------------|-----------------------------------------------------|
| 1 | 10/16/2010 | 23.6 | Verified |
| 2 | 10/17/2010 | 23.6 | Verified |
| 3 | 10/18/2010 | 23.6 | Verified |
| 4 | 10/19/2010 | 23.6 | Verified |
| 5 | 10/20/2010 | 23.6 | Verified |
| 6 | 10/21/2010 | 23.6 | Verified |
| 7 | 10/22/2010 | 23.3 | Verified |
| 8 | 10/23/2010 | 24.0 | Verified |
| 9 | 10/24/2010 | 24.0 | Verified |
| 10 | 10/25/2010 | 24.0 | Verified |
| 11 | 10/26/2010 | 23.6 | Verified |
| 12 | 10/27/2010 | 24.0 | Verified |
| 13 | 10/28/2010 | 24.0 | Verified |
| 14 | 10/29/2010 | 24.0 | Verified |
| 15 | 10/30/2010 | 24.0 | Verified |
| 16 | 10/31/2010 | 24.0 | Verified |
| 17 | 11/01/2010 | 24.0 | Verified |
| 18 | 11/02/2010 | 24.0 | Verified |
| 19 | 11/03/2010 | 24.0 | Verified |
| 20 | 11/04/2010 | 24.0 | Verified |
| 21 | 11/05/2010 | 24.0 | Verified |
| 22 | 11/06/2010 | 24.0 | Verified |
| 23 | 11/07/2010 | 24.0 | Verified |
| 24 | 11/08/2010 | 24.0 | Verified |
| 25 | 11/09/2010 | 24.0 | Verified |
| 26 | 11/10/2010 | 24.0 | Verified |
| 27 | 11/11/2010 | 24.0 | Verified |
| 28 | 11/12/2010 | 24.0 | Verified |
| 29 | 11/13/2010 | 24.0 | Verified |
| 30 | 11/14/2010 | 24.0 | Verified |

Additional log information is available and kept in the archives for 15 years after the asset has been disposed.